APPELLANTS' BRIEF ON APPEAL

Pursuant to 37 CFR 41.37, submitted herewith is Appellants' Brief on Appeal.

37 CFR 41.20(b)(2) FEE

Please also charge Deposit Account 50-1710 for payment of the Appeal Brief fee. Any additional fee required, and any overpayments, should also be charged to or credited to Deposit Account No. 50-1710.

37 CFR 41.37(c)(1)(i) REAL PARTY IN INTEREST

The real party in interest to the above-identified application and to this appeal is Quixotic Solutions, Inc., 1837 16th Street NW, Washington DC, 20009.

37 CFR 41.37(c)(1)(ii) RELATED APPEALS AND INTERFERENCES

None.

37 CFR 41.37(c)(1)(iii) STATUS OF CLAIMS

Claims 33-42 and 50-52 are pending in the application. Claim 33 is the sole independent claim.

Claims 1-32 and 43-49 have been cancelled.

Claims 33-42 and 50-52 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,970,143 to Schneier (hereinafter, "Schneier") in view of U.S. Patent No. 5,326,104 to Pease (hereinafter "Pease"), as set forth in the final Office Action mailed on June 29, 2007. Appellants appeal the final rejection.

Claims 33-42 and 50-52 are reproduced in the Appendix submitted herewith.

37 CFR 41.37(c)(1)(iv) STATUS OF AMENDMENTS

No Amendment has been filed subsequent to the final Office Action.

<u>**37 CFR 41.37(c)(1)(v) SUMMARY OF THE CLAIMED SUBJECT MATTER**</u>

The present invention relates to a business process for creating a secure game contract over a network, comprising the steps of:

generating a game contract agreement [Page 12, lines 12-21; Page 20, lines 8-23 and Fig. 11, steps 12-14; Page 27, lines 6-18 and Fig. 12, step 37], comprising the steps of determining a game contract rule set [Page 24, lines 1-19 and Fig. 12, step 10; Page 27, lines 6-18 and Fig. 12, step 37; Page 56, line 37 - Page 57, line 9], determining a set of game expectations for one or more game contracting parties [Page 12, lines 12-21; Page 27, lines 6-18 and Fig. 12, step 37], and determining potential game contract outcomes [Page 12, lines 12-21; Page 27, lines 6-18 and Fig. 12, step 37];

receiving initial game conditions for game contract generation from the one or more game contracting parties [Page 24, lines 22-30 and Fig. 12, step 12; Page 25, lines 7-17 and Fig. 12, step 17];

carrying out game contract activity according to the game contract rule set such that the one or more game contracting parties act in a synchronized manner according to the game contract rule set and the set of game expectations [Page 27, line 19 - Page 35, line 30 and Fig. 13; Page 45, lines 7-19 and Figs. 15 and 10];

generating a non-refutable game contract log detailing all contract transactions [Page 47, lines 1-33];

generating a theoretical game contract log detailing expected game contract transactions based on the game contract rule set, the set of game expectations, and the game initial conditions [Page 35, line 1 - Page 45, line 6 and Fig. 14; The entire Game

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Verification process described in Section 2.4 discusses the Player Game log being verified against newly received information (that is stored in a "theoretical game contract log" implicitly). Differences between the two logs create Exceptions which are logged]; and

verifying the game contract transactions as recorded in the game contract log by comparing the game contract transactions in the game contract log to the expected game contract transactions in the theoretical game contract log [Page 35, line 1 - Page 45, line 6 and Fig. 14; The entire Game Verification process described in Section 2.4 discusses the Player Game log being verified against newly received information (that is stored in a log implicitly). Differences between the two logs create Exceptions which are logged].

37 CFR 41.37(c)(1)(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The rejection of Claims 33-42 and 50-52 under 35 U.S.C. §103(a) as being unpatentable over <u>Schneier</u> in view of <u>Pease</u>.

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37 CFR 41.37(c)(1)(vii) ARGUMENT

This argument will be brief. The Examiner has failed to demonstrate, on the record, where any of the cited art discloses or suggests at least the following elements of independent Claim 33:

> generating a non-refutable game contract log detailing all contract transactions;
>
> generating a theoretical game contract log detailing expected game contract transactions based on the game contract rule set, the set of game expectations, and the game initial conditions; and
>
> verifying the game contract transactions as recorded in the game contract log by comparing the game contract transactions in the game contract log to the expected game contract transactions in the theoretical game contract log.

A. The Examiner contends that the "generating a non-refutable game contract log... " feature is disclosed in <u>Schneier</u>'s alleged teaching that "players compete in a head-to-head tournament with the rules in set format (i.e. contract format)(<u>Col. 40, lines 17-58</u>). In other words, Schneier discloses secure contract by having a secure module containing dedicated game device for players (i.e. contracting parties)."

Applicants do not know how to respond to the Examiner's argument. First, the alleged teachings "players compete in a head-to-head tournament with the rules in set format" and "a secure module containing dedicated game device for players" **have absolutely nothing to do with** "generating a non-refutable game contract log." Second, absolutely nothing in <u>Schneier</u> (including the referenced Col. 40,

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lines 17-58) discloses or suggests anything remotely similar to "generating a non-refutable game contract log ." In fact, the words "log", "contract", and "refutable" do not even appear in <u>Schneier</u>. Accordingly, this rejection must be overturned.

B. The Examiner also contends that the claimed feature "generating a theoretical game contract log detailing expected game contract transactions..." is disclosed in Schneier "when he discloses entire tournament for a group of players may be held on a single game computer (<u>col. 40, line 59 to col. 41, line 67</u>). In other words, Schneier has to have rules sets in order to have online tournament for a group of players."

Again, Applicants can not meaningfully respond since the alleged teachings "entire tournament for a group of players may be held on a single game computer" and "Schneier has to have rules sets in order to have online tournament for a group of players" ***have absolutely nothing to do with*** "generating a theoretical game contract log detailing expected game contract transactions... ." Again, absolutely nothing in <u>Schneier</u> (including the referenced col. 40, line 59 to col. 41, line 67) discloses or suggests anything remotely similar to "generating a theoretical game contract log detailing expected game contract transactions... ." For this reason also, this rejection must be overturned.

C. The Examiner likewise contends that the claimed feature "verifying the game contract transactions as recorded in the game contract log by comparing the game contract transactions in the game contract log..." is present in Pease "when he discloses (<u>col. 4, lines 34-64; fig. 4 and abstract</u>). In other words, Pease tracks all

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transactions to maintain verification of game contracts and players. He maintains player accounts using a double entry bookkeeping system. In that, he checks the critical files at intervals to ensure that the control words are appropriate given the content of the files."

Applicants, again, can not reply with precision since the alleged teaching "Pease tracks all transactions to maintain verification of game contracts and players. He maintains player accounts using a double entry bookkeeping system. In that, he checks the critical files at intervals to ensure that the control words are appropriate given the content of the files" *has absolutely nothing to do with* "verifying the game contract transactions as recorded in the game contract log by comparing the game contract transactions in the game contract log..." Like the above-discussed claim features, absolutely nothing in Pease (including the referenced col. 4, lines 34-64; fig. 4 and abstract) discloses or suggests anything remotely similar to ""verifying the game contract transactions as recorded in the game contract log by comparing the game contract transactions in the game contract log... ." This rejection must be overturned on this ground also.

D. The Examiner is equally cavalier in his rejections of the dependent claims. *As one example only*, Claim 50 recites "...the step of using an irreversible transform to transact the game play contract activity... ." The Examiner finds this feature in Col. 47, lines 7-39 of Schneier. However, this portion of Schneier discloses only that metered programs may have unique encryption keys, common encryption keys, or shared encryption keys. This *has absolutely nothing to do with* "using an irreversible transform to transact the game play contract activity... ." The undersigned

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is aware of the unfortunate practice of citing 80-column and 40-column references in Office Actions on the assumption that "it's in there somewhere." Such a practice is costly and does great disservice to Applicants, the public, and this Board. If the Examiner has a good rejection, he should clearly state so on the record.

E. Lastly, the Examiner has utterly failed to detail on the record any reason why a person of ordinary skill in this art at the time of the invention would have combined Schneier with Pease. The *only* statement provided by the Examiner in this regard is the wholly conclusory statement: "Thus, it would have been obvious to one of ordinary skill in the art to enable a verification step wherein contract transactions are tracked to maintain original transactions versus expected transactions as disclosed in Pease." Contrary the USPTO Examination Guidelines and the U.S. Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ___,127 S.Ct 727, 167 LE2d 705, 82 USPQ2d 1385 (2007), there is absolutely no reasoning on the record as to why a person of ordinary skill in the art would have combined Schneier with Pease. For this reason also, this rejection is fatally defective and must be overturned.

CONCLUSION

In view of the above, Appellants submit that Claims 33-42 and 50-52 are not obvious over Schneier in view of Pease. Accordingly, reversal of the final rejection, allowance of the rejected claims, and issuance of the subject patent application are respectfully requested.

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Appellants' undersigned attorney may be reached in our Washington,

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directed to our address given below.

Respectfully submitted,

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33. A business process for creating a secure game contract over a network, comprising the steps of:

generating a game contract agreement, comprising the steps of determining a game contract rule set, determining a set of game expectations for one or more game contracting parties, and determining potential game contract outcomes;

receiving initial game conditions for game contract generation from the one or more game contracting parties;

carrying out game contract activity according to the game contract rule set such that the one or more game contracting parties act in a synchronized manner according to the game contract rule set and the set of game expectations;

generating a non-refutable game contract log detailing all contract transactions;

generating a theoretical game contract log detailing expected game contract transactions based on the game contract rule set, the set of game expectations, and the game initial conditions; and

verifying the game contract transactions as recorded in the game contract log by comparing the game contract transactions in the game contract log to the expected game contract transactions in the theoretical game contract log.

34. The business process according to Claim 33, wherein after the process is completed, financial transactions occur based upon the secure contract.

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35. The business process according to Claim 33, where the contract activities over the network are non-refutable.

36. The business process according to Claim 35, where one or more digital signatures are used to provide non-refutable identification of the one or more contracting parties.

37. The business process according to Claim 35, where the activities are non-refutable by any of the one or more contracting parties to the secure contract.

38. The business process according to Claim 35, where the activities are non-refutable by a supporting party with an interest in the secure contract.

39. The business process according to Claim 35, where the activities are non-refutable by a supporting party providing recourse for improper contracts.

40. The business process according to Claim 33, where the contract rule set and initial conditions further comprise hidden events, which comprise random events generated by a trusted third party.

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41. The business process according to Claim 33, where the contract log further comprises simultaneous events, wherein said simultaneous events are held, controlled and verified by a trusted third party.

42. The business process according to Claim 33, where any contracting or supporting party can provide recourse in the event of problems during creation of the secure contract.

50. The business process according to Claim 33, wherein the step of carrying out game play contract activity includes the step of using an irreversible transform to transact the game play contract activity between the one or more game contracting parties.

51. The business process according to Claim 33, further comprising the step of using a central registry to provide standard Public Key Infrastructure services for registering, revoking, and managing certificates.

52. The business process according to Claim 33, further comprising the step of using a legal authority to adjudicate disagreements between game participants.

37 CFR 41.37(c)(1)(ix) EVIDENCE APPENDIX

None.

37 CFR 41.37(c)(1)(x) RELATED PROCEEDINGS APPENDIX

None.